

UNITED STATES BANKRUPTCY COURT
DISTRICT OF PUERTO RICO

IN RE:
DAVID CARRASQUILLO MARQUEZ
MARIA ISABEL ROSA MASSANET

DEBTOR (S)

CASE NO. 11-02452-SEK

CHAPTER 13

**TRUSTEE'S UNFAVORABLE REPORT
ON PROPOSED PLAN CONFIRMATION UNDER §1325**

TO THE HONORABLE COURT: NOW COMES, José R. Carrión, Chapter 13 Trustee, and very respectfully alleges and prays:

This is the Trustee's position regarding the request, under **11 U.S.C. §1325**, for the confirmation of a Chapter 13 Plan.

Debtor(s)' Income: **Above Median / 60 months commitment period.** Gen Unsecured Pool: **\$0.00**

The **LIQUIDATION VALUE** of the estate has been determined in **\$3,162.00 R2016 STM. \$3,000.00**

TOTAL ATTORNEYS FEES THRU PLAN: \$2,600.00 Fees paid: \$0.00 Fees Outstanding: \$2,600.00
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With respect to the proposed (amended) Plan dated: **March 24, 2011** (Dkt 2). Plan Base: **35,360.00**

The proposed (amended) plan can not be confirmed because it has the following deficiencies:

- Insufficiently Funded : Fails CREDITORS' BEST INTEREST TEST [§1325(a)(4)]

The Plan is insufficiently funded to pay unsecured creditors the amount equivalent to the Estate's hypothetical liquidation value. The Plan needs a minimum base of approximately \$38,500.00. In addition, Debtors must submit evidence of current market value of property located at Candelerio Abajo Ward, Humacao , Puerto Rico. As per Luis Abreu & Associates comparable sales data system, properties in such area have been value between the \$63,000.00 to \$157,000.00. Therefore, Debtors must submit evidence of the current market value of a real property with the same characteristic of the property listed in Schedule B. Consequently, this case could have a bigger liquidation value.

- Feasibility [§1325(a)(6)]

A review of Oriental Bank's proof of claim number 16-1, the lease has a residual of \$6,000.00, thus, Debtor must explain how they pretend to pay such amount without affecting their unsecured creditors.

- Other/Comments

The Plan proposes to pay the value of collateral of the equipment secured by Banco de Desarrollo Económico Para Puerto Rico ("BDE"). However, Debtors have not filed an adversary proceeding requesting the determination of the collateral value or a motion requesting a hearing in order to discuss the value of BDE's secured claim pursuant to Federal Bankruptcy Rule 3012. The confirmation of the Plan should be held in abeyance until the outcome of this Honorable Court as to the value of BDE's secured claim.

Due to the above described deficiencies in the proposed plan the Trustee Objects to the Confirmation of the same.

CERTIFICATE OF SERVICE: The Chapter 13 Trustee herewith certifies that a copy of this motion has been served via first class mail on the same date it is filed to: the DEBTOR(s), and to her/his/their attorney through CM-ECF notification system.

In San Juan, Puerto Rico this July 27, 2011.

/s/ Mayra Arguelles -Staff Attorney

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